IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL NO. 1:08CV321
(1:03CR44)

TODD WILSON SHORT,	)	
	)	
Petitioner,	)	
	)	
Vs.	)	**O R D E R**
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	
	)	

THIS MATTER is before the Court on Respondent's motion for summary judgment.

In accordance with *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Petitioner, who is proceeding *pro se*, is cautioned that he carries a heavy burden in responding to a motion for summary judgment. Rule 56(e) of the Federal Rules of Civil Procedure provides:

> When a motion for summary judgment is properly made and supported, an opposing party may not rely merely on allegations or denials in its own pleading; rather, its response must – by affidavits or as otherwise provided in this rule – set out specific facts showing a genuine issue for trial. If the opposing party does not so respond, summary judgment should, if appropriate, be entered against that party.

Fed. R. Civ. P. 56(e)(2). This language means that if the Petitioner has any evidence to offer to show that there is a genuine issue for trial, he must now present it to the Court in a form which would otherwise be admissible at trial, that is, in the form of affidavits or unsworn declarations. An affidavit is a written statement under oath; in other words, a statement prepared in writing and sworn before a notary public. An unsworn statement, made and signed under the penalty of perjury, may also be submitted.

Affidavits or statements must be presented by the Petitioner to this Court within 30 days from the date of this Order. As stated by Rule 56(e), Petitioner's failure to respond may result in the action being dismissed by way of summary judgment.

IT IS, THEREFORE, ORDERED that the Petitioner is allowed 30 days from the date this Order is filed within which to respond, in accordance with the provisions of Fed. R. Civ. P. 56(e), to Respondent's motion for summary judgment.

Signed: October 28, 2008

Lacy H. Thornburg
United States District Judge